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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE201

Notice of Availability of the *Deepwater Horizon* Oil Spill Texas Trustee Implementation Group Draft 2017 Restoration Plan and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; and Oysters

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP),¹ the *Deepwater Horizon* Federal and State natural resource trustee agencies for the Texas Trustee Implementation Group (Texas TIG) have prepared a Draft 2017 Restoration Plan and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; and Oysters (Draft RP/EA). The Draft RP/EA describes and proposes restoration project alternatives considered by the Texas TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Texas TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The proposed projects are consistent with the restoration alternatives selected in the *Deepwater*

¹ Consent Decree among Defendant BP Exploration & Production Inc. ("BPXP"), the United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas entered in *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 in the United States District Court for the Eastern District of Louisiana.

Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The purpose of this notice is to inform the public of the availability of the Draft RP/EA and to seek public comments on the document.

DATES: The Texas TIG will consider public comments received on or before [*insert date 30 after date of publication in the Federal Register*].

Public Meetings: The Texas TIG will host two public meetings to facilitate public review and comment on the Draft RP/EA. Both written and verbal public comments will be taken at each public meeting. The Texas TIG will hold an open house for each meeting followed by a formal meeting where the Texas TIG will take written and verbal public comments. Each public meeting will include a presentation of the Draft RP/EA. Public meetings will be held on June 7 and 8, 2017. The full meeting schedule is listed in **SUPPLEMENTARY INFORMATION** below.

ADDRESSES:

Obtaining Documents: You may download the Draft RP/EA at <http://www.gulfspillrestoration.noaa.gov>. Alternatively, you may request a CD of the Draft RP/EA (see **FOR FURTHER INFORMATION CONTACT** below). Also, you may view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>.

Submitting Comments: You may submit comments on the Draft RP/EA by one of following methods:

- *Via the Web:* <http://www.gulfspillrestoration.noaa.gov>;
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, Georgia 30345. Please note that mailed comments must be postmarked on or before the comment deadline of 30 days following publication of this notice to be considered; or

- *In Person*: Written and oral comments may be submitted at public meetings on June 7 and 8, 2017 (see **Invitation to Comment** below).

FOR FURTHER INFORMATION CONTACT:

- National Oceanic and Atmospheric Administration – Jamie Schubert,
Jamie.Schubert@noaa.gov;
- Texas Parks and Wildlife Department – Don Pitts, *Don.Pitts@tpwd.texas.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire, and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest maritime oil spill in United States history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas also was released to the environment as a result of the spill.

The *Deepwater Horizon* Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the

restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damages claims with BP in a Consent Decree approved by the U.S. District

Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Texas Restoration Area are now chosen and managed by the Texas TIG. The Texas TIG is comprised of the following DWH Trustees:

- Texas Parks and Wildlife Department;
- Texas General Land Office;
- Texas Commission on Environmental Quality;
- U.S. Department of the Interior, as represented by National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture; and
- U.S. Environmental Protection Agency.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Types being considered in the Draft RP/EA, as well as the OPA criteria against which project ideas are being evaluated, can be viewed in the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>) and in the Overview of the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>).

Background

On July 6, 2016, the Texas TIG posted a public notice at <http://www.gulfspillrestoration.noaa.gov> requesting new or revised proposals by August 31, 2016, regarding natural resource restoration in the Texas Restoration Area for the 2016–2017 planning years. The notice stated that the Texas TIG is prioritizing restoration planning efforts on Restoration Types that were not addressed previously by Early Restoration: 1) restore and

conserve wetland, coastal, and nearshore habitats; 2) restore water quality through nutrient reduction (nonpoint source); and 3) replenish and protect oysters.

Overview of the Draft RP/EA

The Draft RP/EA is being released in accordance with OPA, the OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

In the Draft RP/EA, the Texas TIG proposes preferred project alternatives for the following Restoration Types: (1) wetland, coastal, and nearshore habitats; and (2) oysters. For the water quality (nonpoint source) Restoration Type, the Texas TIG has determined additional restoration planning is necessary, and does not propose any restoration projects in this Draft RP/EA.

For wetland, coastal, and nearshore habitats, the Draft RP/EA proposes the following preferred project alternatives:

- Bird Island Cove Habitat Restoration Engineering,
- Essex Bayou Habitat Restoration Engineering,
- Dredged Material Planning for Wetland Restoration,
- McFaddin Beach and Dune Restoration,
- Bessie Heights Wetland Restoration,
- Pierce Marsh Wetland Restoration,
- Indian Point Shoreline Erosion Protection,
- Bahia Grande Hydrologic Restoration,
- Follets Island Habitat Acquisition,
- Mid-Coast Habitat Acquisition,

- Bahia Grande Coastal Corridor Habitat Acquisition, and
- Laguna Atascosa Habitat Acquisition.

For oysters, the Draft RP/EA proposes Oyster Restoration Engineering as the preferred project alternative.

The Draft RP/EA also evaluates a no action alternative. One or more alternatives may be selected for implementation by the Texas TIG.

The Texas TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In the Draft RP/EA, the Texas TIG presents to the public its draft plan for providing partial compensation to the public for injured natural resources and ecological services in the Texas Restoration Area. The proposed projects are intended to continue the process of restoring natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost of the proposed projects is \$49,466,000. Additional restoration planning for the Texas Restoration Area will continue.

Next Steps

The public is encouraged to review and comment on the Draft RP/EA. Public meetings are scheduled to facilitate the public review and comment process. After the close of the public comment period, the Texas TIG will consider and address the comments received before issuing a final RP/EA. A summary of comments received and the Texas TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

Public Meeting Schedule

The Texas TIG will conduct public meetings to provide information and seek input on the Draft RP/EA:

- June 7, 2017, at 6 p.m. at the Harte Research Institute for Gulf of Mexico Studies, Texas A&M University-Corpus Christi, 6300 Ocean Drive, Corpus Christi, Texas 78412;

- June 8, 2017, at 6 p.m. at the Texas A&M AgriLife Extension Service, Galveston County Office, 4102-B Main Street (FM 519), La Marque, Texas 77568.

Written and oral comments on the Draft RP/EA may be submitted at the public meetings. Persons with disabilities may request special accommodations at the public meeting by contacting the Texas TIG by July 1, 2017 (see **FOR FURTHER INFORMATION CONTACT** above).

Invitation to Comment

The Texas TIG seeks public review and comment on the Draft RP/EA (see **ADDRESSES** above). Before including your address, telephone number, email address, or other personal identifying information in your comment, please be aware that your entire comment, including your personal identifying information, will become part of the public record.

Administrative Record

The documents comprising the Administrative Record for the Draft RP/EA can be viewed electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority for this action is OPA (33 U.S.C. 2701 *et seq.*) and the OPA NRDA regulations at 15 CFR part 990.

Dated: May 12, 2017.

Christopher Meaney,
Acting Deputy Director,
Office of Habitat Conservation,
National Marine Fisheries Service.

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